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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of
Laurent De Volder
Application No. 10/018,302
Filed: November 8, 2002
Attorney Docket No. U 013688-5

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DECISION ON PETITION

This is a decision on the Request To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on October 23, 2003, which is being treated as a Petition To Withdraw Holding Of Abandonment. The deciding official in the Office of Patent Publications received the application file and the enclosed Request To Withdraw Holding Of Abandonment on November 29, 2004.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The application was held abandoned for Applicant's failure to timely file new formal drawings as required in the Notice of Allowability, mailed May 13, 2003. Accordingly, the Notice of Abandonment was mailed on October 10, 2003.

Petitioner has submitted copies of the Amendment After Allowance, Letter Accompanying Amendment After Allowance, drawings, and the postcard receipt.

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

MPEP 503 (postcard receipt as prima facie evidence)
Certificate of Mailing under 37 CFR 1.8(b)
"Express Mail" Mailing under 37 CFR 1.10

Petitioner does not satisfy the requirement under MPEP 503 in that the identifying data on the post card doesn't clearly or properly identify the item—drawings—for which receipt is requested.

Provisions under 37 CFR 1.8(b) requires that the petitioner (1) promptly inform the Office of the previous timely mailing or transmission after becoming aware that the Office has no evidence of receipt of the correspondence, (2) supply copies of the previously mailed correspondence with certificate of mailing thereon, and (3) include a statement which attests to the previous timely mailing.

Petitioner does not satisfy requirement under 37 CFR 1.8(b)(2) and (3) in that, copies of the previously mailed correspondence did not include a certificate of mailing, and therefore, does not receive the benefits of 37 CFR 1.8, and an attesting statement was not provided.

Patent rules under 37 CFR § 1.8 ii states in part: ...The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. *See 37 CFR §1.8 Certificate of mailing or transmission*

Further, the petitioner copy of the Letter Accompanying Amendment After Allowance (Letter) refers to amendments to the drawings, but doesn't identify drawings as being submitted therewith. Also, the Letter could not received the benefits of 37 CFR § 1.8 since the Certificate Of Mailing/Transmission was not signed.

The holding of abandonment cannot be withdrawn as this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, other petition remedies are available for bringing about the withdrawal of the holding of abandonment.

File a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). Forms are available at USPTO website <http://www.uspto.gov>

- Under 37 CFR 1.137(a), a petition for the revival of an **unavoidably** abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable:
and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

By mail: Commissioner for Patents
 P O Box 1450
 Mail Stop Petitions
 Alexandria, VA 22313-1450

Telephone inquires concerning this decision may be directed to the undersigned at 703-305-8380.



Thomas E. Hawkins
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Office of Patent Publication